

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**LAKE TEXOMA HIGHPORT, LLC           §  
d/b/a HIGHPORT MARINA & RESORT §  
& HIGHPORT SOCIAL CLUB           §**

*Plaintiff,*

**V.**

**ALTERRA EXCESS & SURPLUS  
INSURANCE COMPANY,**

***Defendant.***

~~~~~

CIVIL ACTION NO. \_\_\_\_\_

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441, and 1446, Defendant Evanston Insurance Company, as successor by merger to Alterra Excess & Surplus Insurance Company (“Evanston”), files this Notice of Removal from Cause No. CV-17-1218, In the 397th Judicial District Court of Grayson County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division, and respectfully shows the Court the following.

## I. PROCEDURAL BACKGROUND

1. On or about August 9, 2017, Plaintiff Lake Texoma Highport, LLC d/b/a Highport Marina & Resort & Highport Social Club (“Highport”) filed Plaintiff’s Original Petition and Request for Disclosure in the matter styled *Lake Texoma Highport, LLC d/b/a Highport Marina & Resort & Highport Social Club v. Alterra Excess & Surplus Insurance Company*, Cause No. CV-17-1218, In the 397th Judicial District Court of Grayson County, Texas.

2. Highport alleges that Alterra issued policy number MKLS13XP000664 effective September 9, 2014 to September 12, 2015 (“the policy”) insuring Highport for loss due to wind. According to Highport, on May 25, 2015, a severe wind event occurred damaging the insured property. Highport further contends that it submitted claim on the policy for the wind damage, but Alterra denied the claim attributing the damage to a flood event, which is not a covered cause of loss under the policy.

3. Highport served Alterra with Plaintiff’s Original Petition and Request for Disclosure on September 6, 2017, via certified mail, return receipt requested through The Corporation Trust Company.

4. Pursuant to the Court’s Local Rules, attached hereto is the Index of Matters Being Filed (Exhibit A), a certified copy of the Grayson County Court Clerk’s docket sheet and state court file for this case (Exhibit B), and the Designation of Counsel (Exhibit C).

## **II. BASIS FOR REMOVAL**

5. Removal is proper under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446. There is complete diversity of citizenship and the amount in controversy is above the required limit.

6. In Highport’s Original Petition, Highport alleges that it is seeking damages in excess of \$1,000,000. Accordingly, the amount in controversy exceeds the jurisdictional removal requirement of \$75,000.

7. Upon information and belief, Highport is a Texas limited liability company with its principal place of business located at 120 Texoma Harbor Drive, Pottsboro, Texas, 75076. Highport is therefore a resident of the State of Texas.

8. Evanston is an Illinois corporation with its principal place of business in that state.

### **III.**

#### **THE REMOVAL IS PROCEDURALLY CORRECT**

9. Highport served Evanston with process through The Corporation Trust Company on September 6, 2017. Accordingly, this Notice of Removal is timely. 28 U.S.C. §1446(b).

10. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action was filed and because a substantial part of the events giving rise to Highport's claims allegedly occurred in this district.

11. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice. Evanston will promptly provide written notice of this filing to Highport, and a true and correct copy of this Notice of Removal will be filed with the Clerk of Grayson County. 28 U.S.C. §1446(d).

### **IV.**

#### **CONCLUSION**

12. Based upon the foregoing, the exhibits submitted in support of this Removal and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant Evanston removes this case to this Court for trial and determination.

Respectfully submitted

**THOMPSON, COE, COUSINS & IRONS, LLP**

By: /s/ J. Richard Harmon  
J. Richard Harmon  
**LEAD COUNSEL**  
State Bar Number 09020700  
[rharmon@thompsoncoe.com](mailto:rharmon@thompsoncoe.com)  
Linda Szuhly Ressetar  
State Bar Number 24033250  
[lressetar@thompsoncoe.com](mailto:lressetar@thompsoncoe.com)  
700 N. Pearl Street, 25th Floor  
Dallas, Texas 75201  
Telephone (214) 871-8200  
Facsimile (214) 871-8209

**And**

Cyrus W. Haralson  
State Bar Number 24065371  
[charalson@thompsoncoe.com](mailto:charalson@thompsoncoe.com)  
One Riverway, Suite 1400  
Houston, Texas 77056  
Telephone (713) 403-8210  
Facsimile (713) 403-8299

**ATTORNEYS FOR DEFENDANT EVANSTON  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2017 a true and correct copy of this instrument was forwarded to all known counsel of record using the Court's CM/ECF system, in accordance with the Federal Rules of Civil Procedure and applicable Local Rules, and by certified mail.

James D. Shields  
Bart F. Higgins  
R. Brian Shields  
Shields Legal Group, PC  
16301 Quorum Drive, Suite 250B  
Addison, Texas 75001

/s/ J. Richard Harmon  
J. Richard Harmon  
Linda Szuhay Ressetar